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28 JUNE 1949

LAW REPORT, JUNE 27

Court of Appeal

Tass Agency: A Question of Privilege

Krajina v. Tass Agency

Before Lord Justice Tucker, Lord Justice Cohen, and Lord Justice Singleton

The Court dismissed the interlocutory appeal of the plaintiff from an order made by Mr. Justice Birkett, in Chambers, on December 10, 1948, directing that service of a writ on the Tass Agency by Mr. Vladimir Krajina, of Hogarth Road, Earls Court, whereby he claimed damages for alleged libel, should be set aside on the ground that the agency was an organ of the Union of Soviet Socialist Republics, and was not amenable to the jurisdiction of the Courts of this country.

It was stated that a certificate had been given by the Russian Ambassador in London to the effect that Tass Agency was an organ of the Soviet State.

Mr. W. T. Wells appeared for Mr. Krajina; Mr. D. N. Pritt, K.C., and Mr. F. Cahan for the defendants.

Lord Justice Cohen, delivering the first judgment, said that the Russian Ambassador's certificate stating that the Tass Agency enjoyed all the rights of a legal entity was not enough to show that the Tass Agency was in fact a separate legal entity. On the evidence it seemed to him that it was not established that the Tass Agency was a separate legal entity not entitled to the immunity granted to a department of State, and the appeal must, therefore, fail.

Even if it had been established that the Tass Agency was a separate legal entity, he was not satisfied that it would necessarily follow that immunity would be lost. That point, however, did not arise for decision.

Lord Justice Tucker agreed that the appeal failed. The onus of proof was on the plaintiff to prove that the Tass Agency, a department of State, was a separate legal entity, and he had not discharged that onus. Their decision was only binding between the immediate parties on the evidence the Court had before them.

Lord Justice Singleton also agreed that the appeal must fail, and said that his judgment was strictly limited to the facts which had been put before them.

Leave to appeal to the House of Lords was granted.

STATINTL

Chief, [REDACTED]

STATINTL

22 July 1949.

Chief, [REDACTED]

Lower Court and Court of Appeals Decisions.

STATINTL

Reference: Memo from Acting Chief [REDACTED] dated
30 June 1949. Subject as above.

1. Efforts to secure an official transcript of the proceedings at the subject hearing have been unfruitful, however, it has been determined that the clipping which was attached to the reference memorandum was slightly in error. The correct version is submitted herewith.

STATINTL
[REDACTED]

Attachment.